

**CERTIFICATION PACKAGE****K1.01-2 OFFEROR REPRESENTATIONS AND CERTIFICATIONS -- COMMERCIAL ITEMS (APR 1996)****(a) DEFINITIONS.** As used in this provision--

(1) **Emerging small business** means a small business concern whose size is no greater than 50 percent of the numerical size standard for the standard industrial classification code designated.

(2) **Small business concern** means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

(3) **Small disadvantaged business concern** means a small business concern that--

(i) Is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals; and

(ii) Has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian Organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more of these entities, which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian Organization and which meets the requirements of 13 CFR Part 124.

(4) **Women-owned small business concern** means a small business concern--

(i) Which is at least 51 percent owned by one or more women or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(ii) Whose management and daily business operations are controlled by one or more women.

(5) **Women-owned business concern** means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

**(b) TAXPAYER IDENTIFICATION NUMBER (TIN) (26 U.S.C. 6050M).****(i) TAXPAYER IDENTIFICATION NUMBER (TIN).**

- ☐ TIN: \_\_\_\_\_
- ☐ TIN has been applied for.
- ☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.

- ☐ Offeror is an agency or instrumentality of a foreign government;
- ☐ Offeror is an agency or instrumentality of a Federal, state, or local government;
- ☐ Other. State basis. \_\_\_\_\_

**(ii) CORPORATE STATUS.**

☐ Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;

- ☐ Other corporate entity;
- ☐ Not a corporate entity;
- ☐ Sole proprietorship
- ☐ Partnership
- ☐ Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation

under 26 CFR 501(a).

**(iii) COMMON PARENT.**

- ☐ Offeror is not owned or controlled by a common parent.
- ☐ Name and TIN of common parent:
- Name \_\_\_\_\_
- TIN \_\_\_\_\_

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(c) Offerors must complete the following representations when the resulting contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. Check all that apply.

(1) **SMALL BUSINESS CONCERN.**The offeror represents and certifies as part of its offer that it--

☐ is  
☐ is not

a small business concern.

(2) **SMALL DISADVANTAGED BUSINESS CONCERN.**The offeror represents and certifies that it--

☐ is  
☐ is not

a small disadvantaged business concern.

(3) **WOMEN-OWNED SMALL BUSINESS CONCERN.**The offeror represents that it--

☐ is  
☐ is not

a women-owned small business concern.

**NOTE: Complete paragraphs (c)(4) and (c)(5) only if this solicitation is expected to exceed the simplified acquisition threshold.**

(4) **WOMEN-OWNED BUSINESS CONCERN.**The offeror represents that it -

☐ is  
☐ is not

a woman owned business concern.

(5) **TIE BID PRIORITY FOR LABOR SURPLUS AREA CONCERNS.**If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price.

(6) **SMALL BUSINESS SIZE FOR THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM AND FOR THE TARGETED INDUSTRY CATEGORIES UNDER THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.**(Complete only if the offeror has certified itself to be a small business concern under the size standards for this solicitation.)

(i) **(Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs)).**The offeror represents as part of its offer that it--

☐ is  
☐ is not

an emerging small business.

(ii) **(Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs)).**The offeror represents and certifies as follows:

(A) The offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or

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(B) The offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts).

(Check one of the following:)

<u>NUMBER of EMPLOYEES</u>	<u>AVERAGE ANNUAL GROSS REVENUES</u>
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less
<input type="checkbox"/> 51 - 100	<input type="checkbox"/> \$1,000,001 - \$2 million
<input type="checkbox"/> 101 - 250	<input type="checkbox"/> \$2,000,001 - \$3.5 million
<input type="checkbox"/> 251 - 500	<input type="checkbox"/> \$3,500,001 - \$5 million
<input type="checkbox"/> 501 - 750	<input type="checkbox"/> \$5,000,001 - \$10 million
<input type="checkbox"/> 751 - 1,000	<input type="checkbox"/> \$10,000,001 - \$17 million
<input type="checkbox"/> Over 1,000	<input type="checkbox"/> Over \$17 million

**(d) CERTIFICATIONS AND REPRESENTATIONS REQUIRED TO IMPLEMENT PROVISIONS OF EXECUTIVE ORDER 11246.**

(1) **CERTIFICATIONS OF NONSEGREGATED FACILITIES**(Applies only if the contract amount is expected to exceed \$10,000). By submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees, any facilities that are segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise and that it does not and will not permit its employees to perform their services at any location where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the EQUAL OPPORTUNITY clause in the contract.

(2) **PREVIOUS CONTRACTS AND COMPLIANCE**The offeror represents that--

(i) It--

- ☐ has  
☐ has not

participated in a previous contract or subcontract subject either to the EQUAL OPPORTUNITY clause of this solicitation, the clause originally contained in Section 310 of Executive Order 10925, or the clause contained in Section 201 of Executive Order 11114; and

(ii) It--

- ☐ has  
☐ has not

filed all required compliance reports.

(3) **AFFIRMATIVE ACTION COMPLIANCE.**The offeror represents that--

(i) It--

- ☐ has developed and has on file  
☐ has not developed and does not have on file

at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR Subparts 60-1 and 60-2), or

(ii) It--

☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

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(e) **CERTIFICATION REGARDING PAYMENTS TO INFLUENCE FEDERAL TRANSACTIONS (31 U.S.C. 1352).** (Applies only if the contract is expected to exceed \$100,000). By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract.

(f) **BUY AMERICAN ACT - TRADE AGREEMENTS - BALANCE OF PAYMENTS PROGRAM CERTIFICATE.** (Applies only if DFARS clause 252.225-7007, TRADE AGREEMENTS ACT, is included in this solicitation.)

(1) The offeror certifies that--

(i) Each end product, except the end products listed in subparagraph (2) below, is a domestic end product (as defined in the BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM clause of this solicitation); and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror must identify and certify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies qualify as "U.S.-made end products" but do not meet the definition of "domestic end product":

\_\_\_\_\_  
(Insert line item no.)

(ii) The offeror certifies that the following supplies are qualifying country end products:

\_\_\_\_\_  
(Insert line item no.)

\_\_\_\_\_  
(Insert country of origin)

(iii) The offeror certifies that the following supplies are qualify as designated country end products:

\_\_\_\_\_  
(Insert line item no.)

\_\_\_\_\_  
(Insert country of origin)

(iv) The offeror certifies that the following supplies qualify as Caribbean Basin country end products:

\_\_\_\_\_  
(Insert line item no.)

\_\_\_\_\_  
(Insert country of origin)

(v) The offeror certifies that the following supplies qualify as NAFTA country end products:

\_\_\_\_\_  
(Insert line item no.)

\_\_\_\_\_  
(Insert country of origin)

(vi) The offeror certifies that the following supplies are other nondesignated country end products:

\_\_\_\_\_  
(Insert line item no.)

\_\_\_\_\_  
(Insert country of origin)

**(LIST AS NECESSARY)**

(3) Offers will be evaluated by giving preference to U.S.-made end products, qualifying country end products, designated country end products, NAFTA country end products, and Caribbean Basin country end products over other end products.

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(g) **BUY AMERICAN ACT - NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) IMPLEMENTATION ACT - BALANCE OF PAYMENTS PROGRAM CERTIFICATE.** (Applies only if DFARS clause 252.225-7036, NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) IMPLEMENTATION ACT, clause is included in this solicitation.)

(1) The offeror certifies that--

(i) Each end product, except the end products listed in subparagraph (2) below, is a domestic end product (as defined in the BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM clause of this solicitation); and

(ii) Components of unknown origin are considered to have been mined, produced, or manufactured outside the United States or a qualifying country.

(2) The offeror must identify and certify all end products that are not domestic end products.

(i) The offeror certifies that the following supplies qualify as "U.S.-made end products," but do not meet the definition of "domestic end products":

\_\_\_\_\_  
(Insert line item number)

(ii) The offeror certifies that the following supplies are qualifying country (except Canada) end products:

\_\_\_\_\_  
(Insert line item number)

\_\_\_\_\_  
(Insert country of origin)

(iii) The offeror certifies that the following supplies qualify as NAFTA country end products:

\_\_\_\_\_  
(Insert line item number)

\_\_\_\_\_  
(Insert country of origin)

(iv) The offeror certifies that the following supplies are other non-NAFTA country end products:

\_\_\_\_\_  
(Insert line item number)

\_\_\_\_\_  
(Insert country of origin)

(LIST AS NECESSARY)

(3) Offers will be evaluated by giving preference to U.S.-made end products, qualifying country end products, or NAFTA country end products over other end products.

(h) **CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR INELIGIBILITY FOR AWARD (EXECUTIVE ORDER 12549).**

The offeror certifies, to the best of its knowledge and belief, that--

(1) The offeror and/or any of its principals

[ ] are

[ ] are not

presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and

(2) [ ] Have or

[ ] Have not,

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within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract ; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

- ☐ are or  
☐ are not

presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(i) **PROCUREMENT INTEGRITY CERTIFICATION (41 U.S.C. 423)** (Applies only if the contract is expected to exceed \$100,000.)

I, the undersigned, am the officer or employee responsible for the preparation of this offer. I certify, to the best of my knowledge and belief, that either--

- ☐ I have no information, or  
☐ I have disclosed information to the Contracting Officer

concerning a violation or possible violation of subsection (a), (b), (d), or (f) of 41 U.S.C. 423, Procurement Integrity, or its implementing regulations that may have occurred during the conduct of this procurement.

\_\_\_\_\_  
 Signature of the officer or employee responsible for the offer and date (FAR 52.212-3)

**K1.05 OFFEROR REPRESENTATIONS AND CERTIFICATIONS -- COMMERCIAL ITEMS (OCT 1995)**

(a) **DEFINITIONS.** As used in this clause--

(1) **Foreign person** means any person other than a United States person as defined in Section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. Sec 2415).

(2) **United States person** is defined in Section 16(2) of the Export Administration Act of 1979 and means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern), and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.

(b) **CERTIFICATION.** By submitting this offer, the offeror, if a foreign person, company, or entity, certifies that it--

- (1) Does not comply with the Secondary Arab Boycott of Israel; and  
 (2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. Sec 2407(a) prohibits a United States person from taking.

(c) **REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA** (This representation does not apply to solicitations for the direct purchase of ocean transportation services.)

(1) The offeror shall indicate by checking the appropriate blank in paragraph (c)(2) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term **supplies** is defined in the TRANSPORTATION OF SUPPLIES BY SEA clause of this solicitation.

(2) **REPRESENTATION.** The offeror represents that it--

☐ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

☐ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(3) Any contract resulting from this solicitation will include the TRANSPORTATION OF SUPPLIES BY SEA clause. If the

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offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR Supplement clause at 252.247-7024, NOTIFICATION OF TRANSPORTATION OF SUPPLIES BY SEA.

(DFARS 252.212-7000)

**K33 AUTHORIZED NEGOTIATORS (APR 1984)**

The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations:

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(FAR 52.215-11)

**K38 AUTHORIZATION AND MINE DESCRIPTION FORM (DFS FEB 1985)**

(a) For each mine from which the offeror proposes to supply coal under this solicitation, the offeror is required to submit WITH THE OFFER one properly-executed DFSC Form 4.23, AUTHORIZATION AND MINE DESCRIPTION (MAY 84), except as provided in paragraph (b) below. The Mine Form is attached to this solicitation. It shall be completed and signed by an authorized official of the Operating Company. The "authorized official of the Operating Company" means that individual who is authorized to commit the coal for sale on behalf of the Operating Company and/or the Mine Owner. The Government reserves the right to reject any offer if the applicable Mine Form has not been received with the offer. Further, the Government reserves the right to verify the statements made in the Mine Form prior to award and, in the case of erroneous statements, an offer based on that Mine Form may be rejected. In the event that the Contractor requests that additional mine(s) be added after contract award, one properly-executed Mine Form for each mine shall be furnished by the Contractor at the time of this request.

(b) In the event that the proposed mine is owned by the offeror or by a subsidiary, division, or affiliate of the offeror, DFSC Form 4.23, AUTHORIZATION AND MINE DESCRIPTION (MAY 84), will not be required for that mine. However, in such case, the offeror shall state below the mine(s) exempted by this paragraph (b):

(c) Offerors who offer coal from tipples or preparation plants must clearly identify the mine source(s) and must provide a properly executed AUTHORIZATION AND MINE DESCRIPTION form signed by an authorized official of the Operating Company and/or the Mine Owner providing the coal.

(DFSC 52.208-9F01)

**K85 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (SEP 1994)**

(a) **DEFINITIONS.** As used in this provision--

(1) **Government of a terrorist country** includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) **Terrorist country** means a country determined by the Secretary of State, under Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) **Significant interest** as used in this provision means--

**K85 CONT'D**

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) **PROHIBITION ON AWARD.** In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) **DISCLOSURE.**

If the government of a terrorist country has a significant interest in the offeror or a subsidiary of the offeror, the offeror shall disclose such interest in an attachment to its offer. If the offeror is a subsidiary, it shall also disclose any significant interest each government has in any firm that owns or controls the subsidiary. The disclosure shall include--

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each Government.

(DFARS 252.209-7001)

**L21.02 PROCEDURES FOR AWARDING FAILED 8(a) RESERVATIONS FOR COAL PROCUREMENTS (DFSC OCT 1993)**

(a) The following requirements have been reserved for negotiation under the provisions of section 8(a) of the Small Business Act (Public Law 85-536). This quantity represents fifty percent of the requirements for the installation(s) listed.

<u>ITEM</u>	<u>INSTALLATION</u>	<u>QUANTITY</u>
<b>0003</b>	<b>Rock Island Arsenal Rock Island, IL</b>	<b>15,000 Net Tons</b>
<b>0002</b>	<b>Red River Army Depot Texarkana, TX</b>	<b>10,250 Net Tons</b>

(b) If this reservation does not result in a contract with the Small Business Administration, these items will be negotiated with the applicable bidders under this solicitation in accordance with the following procedures:

(1) **DETERMINING ELIGIBILITY.**

(i) To be eligible to participate in the failed 8(a) reserved portion of this procurement, a concern must have submitted a responsive offer on the unrestricted items.

(ii) The Government reserves the right not to award to any concern who submitted a token offer or attempted by any other device to secure an unfair advantage over other offerors.

(2) **DETERMINING PRIORITY FOR AWARD.**

Labor surplus concerns and other business concerns eligible under (1) above will participate in the following order of priority:

Group 1. Labor Surplus Area (LSA) concerns which are also small business concerns.

Group 2. Other LSA concerns.

Group 3. Small business concerns which are not LSA concerns.

Group 4. Other business concerns which are not LSA concerns.

Within each of the above groups, offers will be requested from concerns in the order of their offers, beginning with the lowest responsive offer. Concerns may offer less than the failed portion(s).

(3) **DETERMINING THE AWARD PRICE.**



**L21.02 CONT'D****(i) GENERAL RULE.**

Subject to the exceptions listed in (ii) and (iii) below, awards of the failed portions shall be made at the highest unit price for each item awarded under the Schedule, adjusted to reflect transportation, rent-free use of Government property, and other cost factors considered in evaluating bids on the Schedule portion. The award price shall be subject to the same discount terms used in the evaluation of the highest award price for a Schedule item.

**(ii) AWARD PRICE INVOLVING FOREIGN END PRODUCTS.**

(A) When the highest award price on the Schedule item is established by an award for a foreign end product, the award price for the failed portion shall be the award price on the Schedule item as adjusted in evaluating the offer submitting the foreign end product for award under applicable Buy American procedures, except for awards on the failed portion to concerns offering foreign end products, in which case the general rule applies.

(B) Award to a concern offering a foreign end product when the highest award price on the Schedule portion is established by a domestic source end product shall be at a price which, after application of the evaluation factors used under Buy American procedures for determining eligibility of a foreign end product for award, is equal to the highest award price on the Schedule portion, adjusted to reflect transportation and other factors considered in evaluating the offers.

**(iii) OBTAINING OFFERS AND PROCESSING AWARDS.**

(A) When an unaccepted low offer is not involved -- If there is no unaccepted low offer meeting the criteria in (B) below, eligible concerns in the order of priority in (2) above will be requested to offer on the failed quantity at the highest unit price awarded on the Schedule portion. Concerns may offer less than the total failed portion, provided that if any part of the failed portion is not taken by eligible concerns in the first 3 groups, awards will be made in Group 4 beginning with the lowest offeror on the Schedule portion at prices no higher than the lowest price awarded on the Schedule portion.

(B) When an accepted low offer is involved -- If (a) a responsive offer is submitted on the Schedule portion at a unit price which, when adjusted, is lower than the adjusted highest unit price awarded on the Schedule portion, but cannot be accepted (e.g., because of "all-or-none" or other quantity limitations, or because the bidder is nonresponsible), and (b) at the time of negotiation for the failed portion, the offer could be accepted (e.g., because the failed quantity is large enough that the quantity limitations could be complied with, or because the bidder has now become responsible), then the following procedures shall be followed:

**Step One.** Eligible concerns (in the order of priority in (2) above, excluding Group 4 firms) will be requested to offer, at the adjusted unit price of the unaccepted bid, a quantity of the failed portion equal to the quantity of the unaccepted offer.

**Step Two.** If no eligible concern will offer to take the entire quantity of the unaccepted offer, then all eligible concerns (in the order of priority in (2) above, excluding Group 4 firms) shall be requested to offer on any lesser portion at the same price, until either the entire quantity is awarded or all eligible concerns refuse any further portions of such quantity.

**Step Three.** Steps Four, Five, and Six are applicable to the remaining failed portion regardless of whether any quantity under Step Two is not awarded after all eligible concerns have been afforded an opportunity to offer on the unaccepted quantity. However, the concern which submitted the unaccepted offer shall be eliminated from consideration under Step Four and Step Five, for award at higher prices, unless that concern first accepts a quantity of the failed portion equal to the entire quantity of its unaccepted offer, at the adjusted price of its offer.

**Step Four.** In case there is more than one unaccepted offer which meets the conditions of (a) and (b) above, Steps One, Two, and Three above shall be applied with respect to the quantities of each such offer in turn, from lowest price to highest.

**Step Five.** Eligible concerns in the order of priority in (2) above will be requested to offer at the highest unit price awarded on the Schedule portion on any quantity of the failed portion remaining after Steps One, Two, and Four have been completed, provided that if any of the failed portion is not taken by eligible concerns in the first 3 groups, awards will be made in Group 4 beginning with the lowest offeror on the Schedule portion at prices no higher than the lowest price awarded on the Schedule portion.

**Step Six.** If the entire failed portion is not taken by eligible concerns pursuant to Steps One through Five above, the failed portion is automatically dissolved and such unawarded portion may be procured by advertising or negotiation, as appropriate, in accordance with existing regulations.

**(4) DEFINITIONS.**

**L21.02 CONT'D**

(i) Labor Surplus Area. The term "labor surplus area" means a geographic area which at the time of award is classified as such by the Secretary of Labor in the Department of Labor "Listing of Eligible Labor Surplus Areas Under Defense Manpower Policy 4A and Executive Order 10582."

(ii) Labor Surplus Area Concerns. The term "labor surplus area concern" means a concern that agrees to perform or cause to be performed a substantial proportion of a contract in labor surplus areas. A concern shall be deemed to perform a substantial proportion of a contract in labor surplus areas if the aggregate costs that will be incurred by the concern of its first tier subcontractors on account of manufacturing or production performed in labor surplus areas amount to more than 50 percent of the contract price.

(iii) A "small business concern" means a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on Government contracts, and can further qualify under the criteria set forth in regulations of the Small Business Administration (CFR Title 13, Section 121.3-8). In addition to meeting these criteria, a manufacturer or a regular dealer submitting offers in its own name must agree to furnish in the performance of the contract end items manufactured or produced by small business concerns; provided, that this additional requirement does not apply in connection with construction or service contracts.

(5) **AGREEMENT.** The offeror agrees that if awarded a contract as a LSA concern under the failed portion of this procurement, it will perform, or cause to be performed, a substantial proportion of the contract in areas classified at the time of award or at the time of performance of the contract as a LSA.

(6) **IDENTIFICATION OF AREAS OF PERFORMANCE.**

Each offeror desiring to be considered for award as a LSA concern on the failed 8(a) portion of this procurement shall identify below the geographical areas in which it proposes to perform, or cause to be performed, a substantial proportion of the contract. Such offerors are instructed to insert the address(es) when costs incurred on account of manufacturing or production (by the offeror or first tier subcontractor) will amount to more than 50 percent of the contract price.

Name of Company:

Street Address:

City/County:

State:

(If more than one location is to be used, list each location and the costs to be incurred at each, stated as a percentage of the contract price.)

**CAUTION:** Failure to list the location of manufacture or production and the percentage of cost to be incurred at each location will preclude consideration of the offeror as a LSA concern.

If the Department of Labor classification of any such area changes after the offeror has submitted its offer, the offeror may change the areas in which it proposes to perform, provided that it so notifies the Contracting Officer before award of the failed 8(a) portion.

(7) **REQUIREMENTS CONTRACT.** In the event multiple awards to two or more suppliers are made for any one item, for the purpose of equitably distributing orders between Contractors for the Schedule and failed 8(a) portion, "the Government will endeavor to apportion the quantities to be ordered, as equally as possible."

NOTE: When responsive offers are received offering an eligible product listed in DFARS 225.403-70, priority for award shall exclude from paragraph 2 above, Group 2; and Group 4 shall be titled "Other Business Concerns."

(DFSC 52.215-9F21)

**F3 TRANSPORT TRUCK AND/OR TRUCK AND TRAILER FREE TIME AND DETENTION RATES (PC&S/COAL) (DFSC JUN 1990)**

(a) Upon arrival of Contractor's transport truck or truck and trailer, the receiving activity shall promptly designate the delivery point into which the load is to be discharged. Contractor shall be paid for detention beyond free time for delays caused by the Government. A minimum of one hour free time is required.

(1) Free time for unloading a transport truck or truck and trailer in excess of one hour: \_\_\_\_\_.

(2) Rate for detention beyond free time: \_\_\_\_\_.

The above will not be considered in the evaluation of offers for award.

(b) Notwithstanding the above, the Government is entitled to at least as much free time as is allowed by the common carrier or that the Contractor normally allows its regular commercial customers, whichever is greater. In addition, the Government will

not pay more in detention rates than the actual rate charged by the common carrier or the rate the Contractor normally charges its regular commercial customers, whichever is lower. UNLESS OFFEROR INDICATES OTHERWISE, FREE TIME WILL BE CONSIDERED UNLIMITED.

(c) **DETENTION COSTS.** Detention costs do not apply to tank wagon deliveries. Detention costs will be the sole responsibility of the activity incurring them. Any invoices for detention costs will be forwarded directly to the activity receiving the product.

(DFSC 52.212-9F19)

**F73.01 OIL TREATMENT/FREEZE PROOFING OF COAL (DFSC JUN 1991)**

(a) OIL TREATMENT refers to the preparation of coal using a petroleum based product to achieve effective dust control. FREEZE PROOFING refers to the preparation of coal to reduce coal from freezing together or to the conveyance which would restrict the product flow.

(b) When called for under the Schedule, coal will be oil treated/freeze proofed using a spray technique permitting a total uniform application. The medium will be applied to the coal at the minimum amount of three quarts/ton, and will be accomplished immediately prior to loading into the conveyance or stockpiling at the tippable location. However, when multiple transfers or transportation modes occur during shipment, treatment will be applied immediately prior to stockpiling or loading at the specified shipping point.

(c) The oil treatment medium may be either heating oil, diesel fuel, or lubricating oil. For freeze proofing, the medium may be any commercially available product designed for such purposes and prepared according to manufacturer's direction. When both oil treatment and freeze proofing are called for in a Schedule, the freeze proofing method may be used to satisfy both requirements provided that a petroleum-based product is used.

(d) Used oils are not acceptable for coal treating unless the oil meets the EPA specifications for used oil that may be burned in nonindustrial boilers/furnaces. The Used Oil Fuel specification is as follows:

<u>CONSTITUENT/PROPERTY</u>	<u>ALLOWABLE LEVEL</u>
Arsenic	5 ppm maximum
Cadmium	2 ppm maximum
Chromium	10 ppm maximum
Lead	100 ppm maximum
Total Halogens	1000 ppm maximum
Flash Point	100 deg F minimum

(See Title 40 of the Code of Federal Regulations, Part 266.) The Contractor must retain on file laboratory test results showing compliance with the EPA requirements.

(e) The Contractor certifies that the treatment medium meets all Federal, State, and local EPA requirements at the burner location.

**F73.01 CONT'D**

(f) The offeror shall submit, with the offer, the name and address of the company supplying the treatment medium. This information shall be supplied on the following lines:

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(g) The Contractor shall notify the Contracting Officer if the supplier of the treatment medium is changed.

**G9.06-1 ADDRESS TO WHICH REMITTANCE SHOULD BE MAILED (DFSC FEB 1996)**

Offeror shall indicate below the complete mailing address (including the nine-digit zip code) to which remittances should be mailed if such address is other than that shown in Block 17a (Standard Form (SF) 1449). In addition, if offeror did not incorporate its nine-digit zip code in the address shown in Block 17a of the SF 1449, the offeror shall enter it below:

(a) Payee Name (Contractor): \_\_\_\_\_  
(DO NOT EXCEED 25 CHARACTERS)

(b) Check Remittance Address:

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(DO NOT EXCEED 30 CHARACTERS PER LINE)

(c) Recipient Name (authorized individual representing the Contractor/courier for check pick-up).  
Leave blank if check is to be mailed

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(DO NOT EXCEED 25 CHARACTERS)

(d) Narrative Information (special instructions).

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(DO NOT EXCEED 153 CHARACTERS)

**I237.03 NOTICE OF EVALUATION PREFERENCE FOR SMALL DISADVANTAGED BUSINESS CONCERNS (APR 1994)**

**(a) DEFINITIONS.**

(1) **Historically black colleges and universities** as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR Section 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before 14 November 1986.

(2) **Minority institutions** as used in this clause, means institutions meeting the requirements of paragraphs (3), (4), and (5) of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in Section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(3) **Small disadvantaged business concern** as used in this clause, means a small business concern, owned and controlled by individuals who are both socially and economically disadvantaged, as defined by the Small Business Administration at 13 CFR Part 124, the majority of earnings of which directly accrue to such individuals. This term also means a small business concern owned and controlled by an economically disadvantaged Indian tribe or Native Hawaiian organization which meets the requirements of 13 CFR 124.112 or 13 CFR 124.113, respectively.

(4) **United States**, as used in this clause, means the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, or the District of Columbia.

**(b) EVALUATION PREFERENCE.**

(1) Offers will be evaluated by adding a factor of 10 percent to the price of all offers, except--

(i) Offers from small disadvantaged business concerns, which have not waived the preference;

(ii) Offers from historically black colleges and universities or minority institutions, which have not waived the preference;

(iii) Otherwise successful offers of--

(A) Eligible products under the Trade Agreements Act when the dollar threshold for application of the Act is exceeded;

(B) Qualifying country end products (as defined in the Defense Federal Acquisition Regulation Supplement clause at 252.225-7001, Buy American Act and Balance of Payments Program); and

(iv) Offers where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government.

(2) The 10 percent factor will be applied on a line item by line item basis or to any group of items on which award may be made. Other evaluation factors described in the solicitation will be applied before application of the 10 percent factor. The 10 percent factor will not be applied if using the preference would cause the contract award to be made at a price which exceeds the fair market price by more than 10 percent.

**(c) WAIVER OF EVALUATION PREFERENCE.**

A small disadvantaged business, historically black college or university, or minority institution offeror may elect to waive the preference, in which case the 10 percent factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) do not apply to offers which waive the preference.

[ ] Offeror elects to waive the preference.

**(d) AGREEMENTS.**

(1) A small disadvantaged business concern, historically black college or university, or minority institution offeror, which did not waive the preference, agrees that in performance of the contract, in the case of a contract for--

(i) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern.

(ii) Supplies, at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern.

(iii) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

**I237.03 CONT'D**

(iv) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(2) A small disadvantaged business, historically black college or university, or minority institution regular dealer submitting an offer in its own name agrees to furnish in performing this contract only end items manufactured or produced by small business concerns, historically black colleges or universities, or minority institutions in the United States.

(3) Upon request, a historically black college or university, or minority institution offeror will provide the Contracting Officer evidence that it has been determined to be an HBCU or MI by the Secretary of Education.

(DFARS 252.219-7006/ALT I)